

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14960 of Edward Becker and Philip J. Gearing, Jr., et al, pursuant to 11 DCMR 3107.2, for a variance from the percentage of lot occupancy requirements (Sub-section 403.2), and a variance from the minimum width and area of the closed court requirements (Sub-section 406.1) for a one-story porch addition to a structure which contains a pre-school on the first floor in an R-5-B District at premises 1844 Mintwood Place, N.W., (Square 2550, Lot 176).

HEARING DATE: March 8, 1989
DECISION DATE: April 5, 1989

FINDS OF FACT:

1. The application appeared on the preliminary calendar at the public hearing of March 8, 1989. The affidavit of posting evidenced that the property had been posted fourteen days prior to the public hearing instead of fifteen days as required by the Rules. The Chairperson ruled to waive the posting requirement and hear the application in the order it was scheduled on the agenda.
2. The property is located on the south side of Mintwood Place between Columbia Road and 19th Street, and is known as premises 1844 Mintwood Place, N.W. It is zoned R-5-B.
3. The lot is irregularly shaped with a frontage of 22 feet along Mintwood Place, a depth of 129.54 feet on the east, a depth of 129.37 feet on the west, and a width of 14.3 feet at the rear.
4. The property is improved with a three story brick row structure which was built in approximately 1907. The first floor of the premises is currently occupied by a child development center with approximately twelve children. The remainder of the premises is devoted to residential use.
5. The surrounding area is characterized by older row dwellings, many small and large apartment buildings, and commercial establishments along Columbia Road. The rear of the site abuts a small park.

6. The previous owner of the property constructed an enclosed porch at the rear of the building pursuant to Building Permit No. B270883 dated July 24, 1979.

7. The current owners purchased the property approximately one year ago. At the time of purchase, inspections of the property revealed that the construction of the porch violated the maximum lot occupancy requirements and created a closed court which is substandard with respect to minimum width and area requirements. The inspection also revealed that the porch encroached onto the neighboring lot approximately three inches. The applicants are currently seeking area variances to permit the porch to remain. The applicants propose to rectify the three inch discrepancy relative to encroachment of the adjoining lot.

8. The Office of Planning (OP), by memorandum dated February 28, 1989, recommended that the application be approved. The OP was of the opinion that the owners are affected by practical difficulties based on the age of the structure and the resulting lot area constraints. The OP was further of the opinion that the continuing existence of the porch would not create any negative impacts on the surrounding area nor impair the R-5-B zone district regulations. The Board concurs with the recommendation of the OP.

9. Advisory Neighborhood Commission 1C did not submit written issues and concerns relative to the application.

10. The record contains several letters in support of the application.

11. The record contains a letter in opposition to the application from the adjoining property owner at 1850 Mintwood Place, N.W. The opposition was based on the encroachment of the porch onto the opposition's property and violations of the setback and lot occupancy requirements of the Zoning Regulations.

12. The Board notes that the dispute relative to the encroachment of the porch onto the adjoining property is beyond its jurisdiction and should be more appropriately addressed by the inspection and enforcement divisions of the Department of Consumer and Regulatory Affairs.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing Findings of Fact and the evidence of record, the Board concludes that the applicants are seeking area variances, the granting of which requires a showing of an exceptional or extraordinary condition of the


property which creates a practical difficulty upon the owner. The Board concludes that the applicant has met the requisite burden of proof. The site is affected by an exceptional condition in that it was created and developed prior to the adoption of the Zoning Regulations a valid building permit had been issued for the erection of the addition and is irregularly shaped.

The Board further concludes that the proposed addition is minimal and has been in existence for approximately ten years without adverse impacts and that its continued existence will not create substantial detriment to the public good nor impair the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map. Accordingly it is ORDERED that the application is hereby GRANTED.

VOTE: 4-1 (Charles R. Norris, Maybelle Taylor Bennett, Paula L. Jewell, Carrie L. Thornhill to grant; William F. McIntosh opposed to the motion).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:



EDWARD L. CURRY
Executive Director

FINAL DATE OF ORDER: AUG 18 1989

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

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UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



APPLICATION No. 14960

As Executive Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that a copy of the Order of the Board in the above numbered case, said Order dated AUG 18 1989, has been mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Edward Becker
1844 Mintwood Place, N.W.
Washington, D.C. 20009

Grace Malakoff, Chairperson
ANC 1C
2425 - 18th Street, N.W.
DC 20009

A handwritten signature in black ink, appearing to be "ELC", written over a horizontal line.

EDWARD L. CURRY
Executive Director

DATE: AUG 18 1989